

§ 271.5

40 CFR Ch. I (7–1–10 Edition)

States” refers only to those State hazardous waste programs which have received final authorization under this part.

(a) Any aspect of the State program which unreasonably restricts, impedes, or operates as a ban on the free movement across the State border of hazardous wastes from or to other States for treatment, storage, or disposal at facilities authorized to operate under the Federal or an approved State program shall be deemed inconsistent.

(b) Any aspect of State law or of the State program which has no basis in human health or environmental protection and which acts as a prohibition on the treatment, storage or disposal of hazardous waste in the State may be deemed inconsistent.

(c) If the State manifest system does not meet the requirements of this part, the State program shall be deemed inconsistent.

[48 FR 14248, Apr. 1, 1983; 48 FR 30114, June 30, 1983]

§ 271.5 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by § 271.6 describing how the State intends to carry out its responsibilities under this subpart;

(3) An Attorney General’s statement as required by § 271.7;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 271.8;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures; and

(6) The showing required by § 271.20(c) of the State’s public participation activities prior to program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State’s submission is complete, the statutory review period (i.e., the period

of time allotted for formal EPA review of a proposed State program under section 3006(b) of the Act) shall be deemed to have begun on the date of receipt of the State’s submission. If EPA finds that a State’s submission is incomplete, the review period shall not begin until all necessary information is received by EPA.

(c) If the State’s submission is materially changed during the review period, the review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the review period by agreement.

§ 271.6 Program description.

Any State that seeks to administer a program under this subpart shall submit a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program, including the information listed below. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction over a class of activities. The responsibilities of each agency must be delineated, their procedures for coordination set forth, and an agency must be designated as a “lead agency” to facilitate communications between EPA and the State agencies having program responsibilities. When the State proposes to administer a program of greater scope of coverage than is required by Federal law, the information provided under this paragraph shall indicate the resources dedicated to administering the Federally required portion of the program.

(1) A description of the State agency staff who will carry out the State program, including the number, occupations, and general duties of the employees. The State need not submit complete job descriptions for every employee carrying out the State program.

Environmental Protection Agency

§ 271.8

(2) An itemization of the estimated costs of establishing and administering the program, including cost of the personnel listed in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support. This estimate must cover the first two years after program approval.

(3) An itemization of the sources and amounts of funding, including an estimate of Federal grant money, available to the State Director to meet the costs listed in paragraph (b)(2) of this section, identifying any restrictions or limitations upon this funding. This estimate must cover the first two years after program approval.

(c) A description of applicable State procedures, including permitting procedures and any State administrative or judicial review procedures.

(d) Copies of the permit form(s), application form(s), and reporting form(s) the State intends to employ in its program. Forms used by the State for hazardous waste management need not be identical to the forms used by EPA but should require the same basic information, except that the State RCRA program must require the use of EPA Manifest Forms 8700-22 and 8700-22A. Where the State preprints information on the Manifest forms, such forms must be submitted with the State's application for approval. Restrictions on preprinting by the States are identified in 40 CFR 271.10(h). Otherwise, the State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms.

(e) A complete description of the State's compliance tracking and enforcement program.

(f) A description of the State manifest tracking system, and of the procedures the State will use to coordinate information with other approved State programs and the Federal program regarding interstate and international shipments.

(g) An estimate of the number of the following:

(1) Generators;

(2) Transporters; and

(3) On- and off-site storage, treatment and disposal facilities, and a brief description of the types of facilities

and an indication of the permit status of these facilities.

(h) If available, an estimate of the annual quantities of hazardous wastes generated within the State; transported into and out of the State; and stored, treated, or disposed of within the State: On-site; and Off-site.

[48 FR 14248, Apr. 1, 1983, as amended at 49 FR 10506, Mar. 20, 1984]

§ 271.7 Attorney General's statement.

(a) Any State that seeks to administer a program under this subpart shall submit a statement from the State Attorney General (or the attorney for those State agencies which have independent legal counsel) that the laws of the State provide adequate authority to carry out the program described under § 271.6 and to meet the requirements of this subpart. This statement shall include citations to the specific statutes, administrative regulations and, where appropriate, judicial decisions which demonstrate adequate authority. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be in the form of lawfully adopted State statutes and regulations at the time the statement is signed and shall be fully effective by the time the program is approved. To qualify as "independent legal counsel" the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program.

NOTE: EPA will supply States with an Attorney General's statement format on request.

(b) When a State seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State's authority.

§ 271.8 Memorandum of Agreement with the Regional Administrator.

(a) Any State that seeks to administer a program under this subpart shall submit a Memorandum of Agreement (MOA). The Memorandum of Agreement shall be executed by the State Director and the Regional Administrator and shall become effective when approved by the Administrator.